

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

McLANE COMPANY, INC., d/b/a
McLane/Southwest, McLane/Southeast,
McLane Southeast, McLane/Northwest,
McLane/Southeast – Dothan, McLane/ High
Plains, and McLane/North Texas;
McLANE/MID-ATLANTIC, INC., d/b/a
McLane/Carolina and McLane Mid-Atlantic;
McLANE/MIDWEST, INC., d/b/a
McLane/Cumberland, McLane/Midwest,
McLane Midwest, and McLane/Ozark;
McLANE MINNESOTA, INC.; McLANE
NEW JERSEY, INC; McLANE/EASTERN,
INC., d/b/a McLane/Northeast,
McLane/Northeast-Concord, and McLane PA;
McLANE/SUNEAST, INC., d/b/a
McLane/Pacific, McLane/Southern
California, McLane/Sunwest, McLane
Sunwest, McLane/Suneast, and McLane
Ocala; McLANE OHIO, INC.;
McLANE/SOUTHERN, INC.;
McLANE/WESTERN, INC.; McLANE
EXPRESS, INC., d/b/a C.D. Hartnett
Company, Inc.; KINEXO, INC; McLANE
FOODSERVICE DISTRIBUTION, INC.;
and, McLANE FOODSERVICE INC.,

Plaintiffs,

v.

PILGRIM’S PRIDE CORPORATION;
KOCH FOODS, INC.; JCG FOODS OF
ALABAMA, LLC; JCG FOODS OF
GEORGIA, LLC; KOCH MEAT CO., INC.;
TYSON FOODS, INC.; TYSON CHICKEN,
INC.; TYSON BREEDERS, INC.; TYSON
POULTRY, INC.; SANDERSON FARMS,
INC.; SANDERSON FARMS, INC. (FOOD
DIVISION); SANDERSON FARMS, INC.
(PRODUCTION DIVISION); KEYSTONE
FOODS, LLC; KEYSTONE FOODS
CORPORATION; EQUITY GROUP
EUFAULA DIVISION, LLC; EQUITY

Case No. _____

**McLANE COMPANY, INC.,
McLANE/MID-ATLANTIC, INC.
McLANE/MIDWEST, INC., McLANE
MINNESOTA, INC., McLANE NEW
JERSEY, INC, McLANE/EASTERN,
INC., McLANE/SUNEAST, INC.,
McLANE OHIO, INC.,
McLANE/SOUTHERN, INC.,
McLANE/WESTERN, INC., McLANE
EXPRESS, INC., KINEXO, INC.,
McLANE FOODSERVICE
DISTRIBUTION, INC., and McLANE
FOODSERVICE INC.’s COMPLAINT
AND JURY DEMAND**

GROUP KENTUCKY DIVISION LLC;
EQUITY GROUP – GEORGIA DIVISION
LLC SANDERSON FARMS, INC.; HOUSE
OF RAEFORD FARMS, INC.; SIMMONS
FOODS, INC.; SIMMONS PREPARED
FOODS, INC.; GEORGE’S, INC.;
GEORGE’S FARMS, INC.; MARJAC
POULTRY, INC.; MAR-JAC POULTRY
MS, LLC; MAR-JAC POULTRY AL, LLC;
MAR-JAC AL/MS, INC.; MAR-JAC
POULTRY, LLC; MAR-JAC HOLDINGS,
LLC; PERDUE FARMS, INC.; PERDUE
FOODS, LLC; WAYNE FARMS, LLC; O.K.
FOODS, INC.; O.K. FARMS, INC.; O.K.
INDUSTRIES, INC.; PECO FOODS, INC.;
HARRISON POULTRY, INC.; FOSTER
FARMS, LLC; FOSTER POULTRY
FARMS; CLAXTON POULTRY FARMS,
INC.; NORMAN W. FRIES, INC.;
MOUNTAIRE FARMS, INC.;
MOUNTAIRE FARMS, LLC; MOUNTAIRE
FARMS OF DELAWARE, INC.; AMICK
FARMS, LLC; THE AMICK COMPANY,
INC.; AMICK-OSI BROILERS, LLC;
AMICK-OSI PROCESSING, LLC; CASE
FOODS, INC.; CASE FARMS, LLC; CASE
FARMS PROCESSING, INC.; FIELDALE
FARMS CORPORATION; AGRI STATS,
INC.; UTRECHT-AMERICA HOLDINGS,
INC.; RABO AGRIFINANCE LLC
RABOBANK; USA FINANCIAL
CORPORATION; and UTRECHT-
AMERICA FINANCE CO.

Defendants.

Plaintiffs McLANE COMPANY, INC., d/b/a McLane/Southwest, McLane/Southeast, McLane Southeast, McLane/Northwest, McLane/Southeast – Dothan, McLane/ High Plains, and McLane/North Texas; McLANE/MID-ATLANTIC, INC., d/b/a McLane/Carolina and McLane Mid-Atlantic; McLANE/MIDWEST, INC., d/b/a McLane/Cumberland, McLane/Midwest, McLane Midwest, and McLane/Ozark; McLANE MINNESOTA, INC.; McLANE NEW JERSEY, INC; McLANE/EASTERN, INC., d/b/a McLane/Northeast, McLane/Northeast-Concord, and McLane PA; McLANE/SUNEAST, INC., d/b/a McLane/Pacific, McLane/Southern California, McLane/Sunwest, McLane Sunwest, McLane/Suneast, McLane Ocala; McLANE OHIO, INC.; McLANE/SOUTHERN, INC.; McLANE/WESTERN, INC; McLANE EXPRESS, INC., d/b/a C.D. Hartnett Company, Inc.; KINEXO, INC.; McLANE FOODSERVICE DISTRIBUTION, INC.; and McLANE FOODSERVICE, INC. (collectively “McLane”) bring this action for treble damages under state and federal laws against Defendants identified below. McLane alleges as follows:

1. McLANE COMPANY, INC., d/b/a McLane/Southwest, McLane/Southeast, McLane Southeast, McLane/Northwest, McLane/Southeast – Dothan, McLane/ High Plains, and McLane/North Texas is a leading supply chain services company providing grocery and foodservice supply chain solutions to convenience stores, discount retailers, wholesale clubs, drug stores, military bases, and restaurants throughout the United States. McLANE COMPANY, INC. is a Texas corporation with its principal place of business in Temple, Texas. It, along with its subsidiaries and affiliates, purchased Broilers directly from one or more Defendants during the Relevant Period, as described in the allegations contained in the Direct Action Plaintiffs’ Consolidated Complaint and Demand for Jury Trial [ECF Nos. 3924, 3922], filed in *In re Broiler*

Chicken Antitrust Litigation, 1:16-cv-08637 (N.D. Ill.) on October 23, 2020,¹ and suffered injury as a result of the violations alleged in this Complaint.

2. McLANE/MID-ATLANTIC, INC., d/b/a McLane/Carolina and McLane Mid-Atlantic, is a Texas corporation with its principal place of business in Temple, Texas. It is a wholly-owned subsidiary of McLANE COMPANY, INC. It purchased Broilers directly from one or more Defendants during the Relevant Period and suffered injury as a result of the violations alleged in this Complaint.

3. McLANE/MIDWEST, INC., d/b/a McLane/Cumberland, McLane/Midwest, McLane Midwest, and McLane/Ozark is a Texas corporation with its principal place of business in Temple, Texas. It is a wholly-owned subsidiary of McLANE COMPANY, INC. It purchased Broilers directly from one or more Defendants during the Relevant Period and suffered injury as a result of the violations alleged in this Complaint.

4. McLANE MINNESOTA, INC. is a Texas corporation with its principal place of business in Temple, Texas. It is a wholly-owned subsidiary of McLANE COMPANY, INC. It purchased Broilers directly from one or more Defendants during the Relevant Period and suffered injury as a result of the violations alleged in this Complaint.

¹ Pursuant to the Court's orders in *In re Broiler Chicken Antitrust Litig.*, 1:16-cv-08637, the Direct-Action Plaintiffs filed "a consolidated complaint" [ECF Nos. 3778, 3653, 3525] containing "all the allegations the Direct-Action Plaintiffs make against all Defendants" on October 23, 2020 [ECF Nos. 3924, 3922]. On October 27, 2020, this Court's Order Granting Defendants' Motion to Stay Obligation to Answer Direct Action Plaintiffs' Consolidated Complaint [ECF No. 3942], ordered that "any additional DAP complaints filed prior to the resolution of DAP's Motion to Amend and not already included in the consolidated amended complaint filed on October 23, 2020 be included in any amended complaint filed." Based on these Orders it appears that new DAP complaints are to ultimately be consolidated, even if filed after the October 23, 2020 consolidated complaint. In an effort to promote efficiency, McLane files this abbreviated pleading that incorporates by reference and adopts the allegations set forth in Direct Action Plaintiffs' Consolidated Complaint and Demand for Jury Trial, as amended. If the Court prefers a different form or process, McLane will withdraw this pleading and proceed according to the Court's direction.

5. McLANE NEW JERSEY, INC. is a Delaware corporation with its principal place of business in Temple, Texas. It is a wholly-owned subsidiary of McLANE COMPANY, INC. It purchased Broilers directly from one or more Defendants during the Relevant Period and suffered injury as a result of the violations alleged in this Complaint.

6. McLANE/EASTERN, INC., d/b/a McLane/Northeast, McLane/Northeast-Concord, and McLane PA is a Texas corporation with its principal place of business in Temple, Texas. It is a wholly-owned subsidiary of McLANE COMPANY, INC. It purchased Broilers directly from one or more Defendants during the Relevant Period and suffered injury as a result of the violations alleged in this Complaint.

7. McLANE/SUNEAST, INC., d/b/a McLane/Pacific, McLane/Southern California, McLane/Sunwest, McLane Sunwest, McLane/Suneast, and McLane Ocala is a Texas corporation with its principal place of business in Temple, Texas. It is a wholly-owned subsidiary of McLANE COMPANY, INC. It purchased Broilers directly from one or more Defendants during the Relevant Period and suffered injury as a result of the violations alleged in this Complaint.

8. McLANE OHIO, INC. is a Texas corporation with its principal place of business in Temple, Texas. It is a wholly-owned subsidiary of McLANE COMPANY, INC. It purchased Broilers directly from one or more Defendants during the Relevant Period and suffered injury as a result of the violations alleged in this Complaint.

9. McLANE/SOUTHERN, INC. is a Mississippi corporation with its principal place of business in Temple, Texas. It is a wholly-owned subsidiary of McLANE COMPANY, INC. It purchased Broilers directly from one or more Defendants during the Relevant Period and suffered injury as a result of the violations alleged in this Complaint.

10. McLANE/WESTERN, INC. is a Colorado corporation with its principal place of business in Temple, Texas. It is a wholly-owned subsidiary of McLANE COMPANY, INC. It purchased Broilers directly from one or more Defendants during the Relevant Period and suffered injury as a result of the violations alleged in this Complaint.

11. McLANE EXPRESS, INC., d/b/a C.D. Hartnett Company, Inc. is a Texas corporation with its principal place of business in Weatherford, Texas. It is a wholly-owned subsidiary of McLANE COMPANY, INC. It purchased Broilers directly from one or more Defendants during the Relevant Period and suffered injury as a result of the violations alleged in this Complaint.

12. KINEXO, INC. is a North Carolina corporation with its principal place of business in Rocky Mount, North Carolina. It is a wholly-owned subsidiary of McLANE COMPANY, INC. It purchased Broilers directly from one or more Defendants during the Relevant Period and suffered injury as a result of the violations alleged in this Complaint.

13. McLANE FOODSERVICE DISTRIBUTION, INC. is a North Carolina corporation with its principal place of business in Rocky Mount, North Carolina. It is a wholly-owned subsidiary of McLANE COMPANY, INC. It purchased Broilers directly from one or more Defendants during the Relevant Period and suffered injury as a result of the violations alleged in this Complaint.

14. McLANE FOODSERVICE, INC. is a Texas corporation with its principal place of business in Temple, Texas. It is a wholly-owned subsidiary of McLANE COMPANY, INC. It purchased Broilers directly from one or more Defendants during the Relevant Period and suffered injury as a result of the violations alleged in this Complaint.

15. Collectively, Plaintiffs are referred to as “McLane.”

16. On October 15, 2018, McLane Company, Inc. and various other foodservice-related subsidiaries opted out of the Settlement Class as it related to the Settlement Agreement with Fieldale Farms Corporation in *In re: Broiler Chicken Antitrust Litigation*.

17. On March 9, 2020, McLane Company, Inc. and various other foodservice-related subsidiaries and affiliates opted out of the Settlement Class as it related to Settlement Agreements with Peco Foods, Inc., George's, Inc. and George's Farms, Inc., and Amick Farms, LLC in *In re: Broiler Chicken Antitrust Litigation*.

18. During the time relevant to McLane's claims, McLane directly purchased Broiler chicken in the United States from one or more of the Defendants and/or their co-conspirators and sustained injury and damage to its business as a proximate result of the antitrust violations and other unlawful activities alleged in this Complaint.

19. McLane brings this action for damages under the federal antitrust laws, Georgia RICO laws, and Federal RICO laws against the defendants identified below and incorporates by reference Direct Action Plaintiffs' Consolidated Complaint and Demand for Jury Trial [ECF Nos. 3924, 3922], filed in *In re Broiler Chicken Antitrust Litigation*, 1:16-cv-08637 (N.D. Ill.) on October 23, 2020, and Certain Direct Action Plaintiffs' Motion for Leave to Amend Their Complaints [ECF 3897], filed in *In re Broiler Chicken Antitrust Litigation*, 1:16-cv-08637 (N.D. Ill.), on October 20, 2020, and the Proposed Amended Complaint contemplated² by Certain Direct Action Plaintiffs' Motion for Leave to Amend Their Complaints.

20. In addition, McLane joins Section II of the Direct Action Plaintiffs' Consolidated Complaint and Demand for Jury Trial [ECF Nos. 3924, 3922] and Section III(D) of Certain Direct

² The Motion to Amend does not appear to attach a proposed amended complaint.

Action Plaintiffs' Motion for Leave to Amend Their Complaints [ECF 3897], adding the following to specify McLane's causes of action and the Defendants and Co-Conspirators in McLane's action:

Plaintiff Name	Operative Complaint (Reference is to Sealed Version, if applicable)	Named Defendants (Not Previously Dismissed)	Named-Co-Conspirators (if any)	Causes of Action
McLane	Direct Action Plaintiffs' Consolidated Complaint and Demand for Jury Trial [ECF Nos. 3924, 3922], along with any subsequent amendments	Agri Stats; Case; Claxton; Foster Farms; Harrison; House of Raeford; Keystone Foods; Koch; Mar-Jac; Mountaire; O.K. Foods; Perdue Pilgrim's Pride; Sanderson; Simmons; Tyson; Wayne; Amick; Fieldale; George's; Peco Rabobank	Allen Harim; Marshall Durbin; Defendant Family Co-Conspirators Tip Top Southern Hens	Count I (Sherman Act Claim for all Anticompetitive Conduct); Count II (Sherman Act Claim for Output Restriction, Pled in the Alternative to Count I); Count III (Sherman Act Claim for GA Dock Manipulation, Pled in the Alternative to Count I); Count IV (GA RICO Based on 16-14-4(a)); Count V (GA RICO Based on 16-14-4(b)); Count VI (Federal RICO)

PRAYER FOR RELIEF

WHEREFORE, McLane respectfully requests that the Court:

- A. Enter joint and several judgments against Defendants in favor of McLane;
- B. Award McLane damages against Defendants in a joint and several judgment for an amount to be determined at trial to the maximum extent allowed under the claims stated above as well as treble damages, any other enhancement of damages, attorneys' fees, expenses, and costs as provided by law;
- C. Award McLane damages in an amount to be determined at trial to the maximum extent allowed under Georgia RICO (Ga. Code Ann. § 16-14-1 *et seq.*), Federal RICO (18 U.S.C. § 1961 *et seq.*), and enter a judgment in favor of McLane against the Georgia Dock

Defendants, with the judgment being for joint and several liability, in an amount to be trebled to the extent such laws permit;

D. Award McLane punitive damages as appropriate under applicable law;

E. Award McLane its pre- and post-judgment interest as provided by law, with such interest to be awarded at the highest legal rate;

F. Award McLane its attorneys' fees, litigation expenses, and costs, as provided by law, including the federal antitrust laws, Georgia RICO, and Federal RICO;

G. Award McLane the costs of investigation and litigation pursuant to Ga. Code Ann. § 16-14-6(c); and

H. Grant McLane such other and further relief that the Court may deem just and proper.

I. JURY TRIAL DEMANDED

McLane demands a trial by jury, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, of all issues so triable.

Dated: December 31, 2020.

Respectfully submitted,

s/ Adam A. Hachikian

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EXPRESS, INC., KINEXO, INC., McLANE
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McLANE FOODSERVICE INC.